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TREASURY FOR INTERNATIONAL AFFAIRS - JROSE  
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SUBJECT: TERRORIST FINANCE: FOLLOW-UP ON ILLICIT CASH  
COURIERS

REF: SECSTATE 152088

¶1. We spoke with Ergin Ergul, Deputy Director General for Foreign Relations at the Justice Ministry. His comments related to questions in reftel are shown below. In addition, we have included information from the April 2007 Financial Action Task Force review of Turkey, which are relevant to this issue.

¶2. Status of host nation laws specifically criminalizing bulk cash smuggling and key elements of those laws: described in para three below.

¶3. Cross-border reporting requirements for inbound/outbound movement of currency and monetary instruments: There is a declaration requirement for taking \$5,000 (or equivalent of any other currency) and above out of Turkey. There is no declaration requirement for incoming cash in any amount. While Turkey currently has a limited declaration system related to movement of currencies worth over USD 5,000, the Anti Money Laundering law (Law 5549 of October 2006) provides for a more comprehensive system to be implemented.

¶4. Host country actions to interdict potential cash couriers or to throw risk into the system: If the Customs authority is suspicious of the amount carried, or of the person carrying it, Customs can appeal to MASAK (Turkey's Financial Intelligence Unit) and report the amount as a suspicious action. If MASAK is convinced that the cash is linked to money laundering or terrorist finance, MASAK carries out the necessary investigation and turns the case over to a GOT prosecutor for litigation.

¶5. Status of investigations into bulk cash smuggling: no information available

¶6. Prosecutions under bulk cash smuggling laws: no information available

¶7. How mission elements have engaged relevant partners to develop and execute a cash courier interdiction plan: The Regional Legal Advisor at Embassy Ankara hosted a seminar in Istanbul on October 31-November 1, 2007, on Anti Money Laundering (AML) and Countering Terrorist Finance (CTF). The Regional Legal Advisor at Embassy Ankara hosted a seminar on October 31-November 1, on AML/CTF issues. Participants included more than 50 judges, prosecutors, bank compliance officers, banking regulators, MASAK, and Ministry of Justice officials. On the U.S. side, representatives from the Department of Justice, Federal Bureau of Investigation, and State Department participated. The conference allowed for an open discussion of the AML and CTF process, along with discussions of suspicious transaction reports, banking compliance issues, and legal concerns related to AML/CTF.

Participants compared success stories and discussed ways to improve the current system to achieve more successful prosecutions of AML and CTF cases.

18. From the 300-page April 2007 Financial Action Task Force Report on Turkey, authored in part by a U.S. Treasury Department official: The GOT recently passed a number of key laws relating to anti-money laundering (AML) and countering terrorist finance (CTF). A new money laundering offense was introduced in June 2005, and a stand-alone terrorist financing offense was introduced in July 2006. The confiscation framework in Turkey appears to meet most of the standards, but has not yet produced substantial results. Turkey has weak systems of implementation of S/RES/1267 (1999) and S/RES/1373 (2001). The new AML law (Law 5549 of October 2006) provides, among other things, for a more comprehensive system of disclosures of cross-border movements of cash and monetary instruments to be implemented in the near future.

After the establishment of the Turkish Republic in 1923, certain laws and codes promulgated were strongly inspired by those of other European civil law jurisdictions. The Government of Turkey has in recent years embarked on a program of legislative renewal, in part related to anticipated accession to the EU. Overall, Turkey's legal requirements to combat ML and TF are generally comprehensive. The legislative renewal program has strengthened the AML/CTF system, though, due to the recent implementation of a number of key laws, many elements of the system's effectiveness have not yet been tested.

Competent authorities are capable, committed and actively involved in the Turkish AML/CTF system. Prosecutors and judges do seem, however, to have limited awareness of AML/CTF

issues. As the TF offense was enacted recently, the CTF training of all authorities and of the financial sector is so far insufficient. Competent authorities do not have an adequate structure and sufficient technical staff and other resources for full AML/CTF supervision of the insurance sector. The FIU is not adequately resourced with staff who have a law enforcement background. Also the need for a Council of Ministers' decree for a MASAK memorandum of understanding to enter into force is too restrictive. The Customs Service does not seem to have sufficient funding and staff for undertaking its functions, and this may lead to inadequate attention to AML/CTF issues.

The primary method for laundering funds seen in 246 referrals made by MASAK are money transfers and other banking transactions (21 percent), commercial transactions and accounting records (14 percent), purchasing real estate (13 percent), physical transfers abroad (four percent), foreign commercial transactions (three percent), shell companies (three percent), and use of counterfeit documents and invoices (three percent).

Following the introduction of AML measures, in particular customer due diligence and suspicious transaction reporting, there has been an increase in attempts to open accounts in the names of third persons. A decreased use of large bank transfers and decreased use of cross-border carrying of cash has been detected. According to Turkish authorities, the ability to conduct non face-to-face transactions due to technological developments is seen as a ML threat on the near horizon.

The Undersecretariat of Customs has a board of inspection and investigation and sends reports on violations of legislation and major smuggling cases to MASAK. It is responsible for laws relating to the cross border movement of cash, and sends copies of foreign currency declaration forms to MASAK. Customs enforcement units for anti-smuggling, intelligence, and narcotics combat all types of smuggling cases.

The number of ML prosecutions in Turkey is very low, and no finalized convictions have yet been achieved. The new ML

offense, the scope of which is broader than the previous offense, is as yet untested. This may provide for an increase in the number of prosecutions in the future.

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